

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

MASSACHUSETTS TEACHERS ASSOCIATION,
et al.,

Plaintiffs,

v.

DAVID P. DRISCOLL, as he is the Chairman of the
Massachusetts Teachers Retirement Board, et al.,

Defendants.

CIVIL ACTION
NO. 04-10910-EFH

JOINT MOTION FOR STATUS CONFERENCE

Plaintiffs Massachusetts Teachers Association, et al. and defendants David P. Driscoll, as he is the Chairman of the Massachusetts Teachers Retirement Board, et al., herewith respectfully request that this Court schedule a status conference in the above-referenced matter. As grounds for and in support of this Joint Motion, the parties state as follows:

1. Plaintiffs brought this action challenging the so-called spousal benefit law, G.L. c. 32, § 5(1). That law, prior to its repeal provided that

Where husband and wife are both members of the same or different systems and one of the two members is retired under the provisions of sections one to twenty-eight inclusive, the other member, upon his or her written application on a prescribed form filed with the board, shall be retired for superannuation irrespective of age as of a date which shall be specified in such application and which shall be subsequent to but not more than four months after the filing of such application.

In 2003, the Legislature repealed the spousal benefit law. St. 2003, c. 26, §§ 177, 715.

2. Plaintiffs claim that the repeal of the spousal benefit law, insofar as it results in the denial of the spousal benefit to Massachusetts public employees who became members of the

retirement system after the passage of G.L. c. 32, § 5(1) but before the effective date of its repeal constitutes a violation of the Contracts Clause and the Takings Clause of the United States Constitution.

3. Defendants intend to oppose plaintiffs' claims on a variety of grounds.

4. While some factual discovery will be sought by both sides, the parties at this time view the necessary discovery as fairly limited in scope.

5. The parties have been negotiating with respect to a discovery and briefing schedule and believe that a conference with the Court would materially assist in that regard.

6. The parties are filing separately, but simultaneously, herewith their Stipulation and Joint Motion to Set Discovery and Briefing Schedule.

WHEREFORE, plaintiffs and defendants respectfully request that the Court grant their motion and schedule a status conference as soon as is conveniently possible for the Court.

Respectfully submitted,

MASSACHUSETTS TEACHERS
ASSOCIATION, et al.,

By their attorneys,

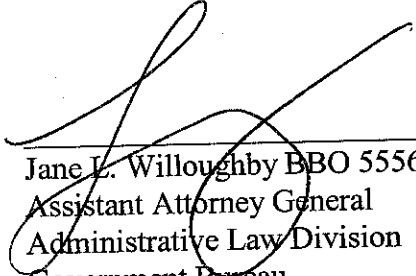
COSGROVE, EISENBERG & KILEY, P.C.

Carl Valvo / J.L.W.
Carl Valvo (BBO #507380)
Nicholas A. Kenney (BBO #650784)
Cosgrove, Eisenberg & Kiley, P.C.
One International Place, Suite 820
Boston, Massachusetts 02110
(617) 439-7775

DAVID P. DRISCOLL, as he is Chairman
of the Massachusetts Teachers Retirement
Board, et al.,

By their attorneys,

THOMAS F. REILLY
ATTORNEY GENERAL



Jane L. Willoughby BBO 555693
Assistant Attorney General
Administrative Law Division
Government Bureau
One Ashburton Place, Rm. 2019
Boston, Massachusetts 02109
(617) 727-2200, ext. 2615

Dated: July 1, 2004

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above
document was served upon the attorney of
record for each other party ~~by mail~~ (by hand)

on 7/1/04